

JAN 24 2019

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# A BILL FOR AN ACT

RELATING TO MEDICAID WAIVER.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that the State's  
2       department of health, developmental disabilities division,  
3       operates the medicaid intellectual and developmental  
4       disabilities home and community-based services waiver under the  
5       medicaid services section 1915(c) of the Social Security Act  
6       (HCBS I/DD waiver) on behalf of the department of human  
7       services, Med-QUEST division, which is the state medicaid  
8       agency.

9       The HCBS I/DD waiver is reviewed and approved by the United  
10      States Department of Health and Human Services Centers for  
11      Medicare and Medicaid Services (CMS) and has many requirements  
12      to ensure appropriate and efficient provision of services and  
13      supports to people with intellectual and developmental  
14      disabilities.

15      The legislature further finds that CMS requires that states  
16      provide participant safeguards to ensure the health, safety, and  
17      rights of HCBS I/DD waiver participants and to ensure services  
18      are delivered by qualified providers. The developmental

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1 disabilities division conducts an initial review of all  
2 applications from provider agencies to ensure medicaid  
3 requirements are met. The Med-QUEST division conducts final  
4 review approval. HCBS I/DD waiver provider agencies are  
5 required to follow waiver standards and policies and procedures  
6 for staff training and supervision to ensure the health and  
7 safety in the settings where participants receive HCBS I/DD  
8 waiver services. The developmental disabilities division  
9 conducts oversight and continuous quality assurance to ensure  
10 safe and appropriate practices by HCBS I/DD waiver provider-  
11 agencies. The Med-QUEST division oversees monitoring activities  
12 performed by the developmental disabilities division. The  
13 developmental disabilities division also conducts certification  
14 of adult foster homes where many waiver participants reside.

15 The legislature also finds that not all waiver participants  
16 who live in residential setting require nursing services, and  
17 that requirements for nursing certifications by all providers of  
18 services in these settings add cost and burden to waiver  
19 provider agencies, which may impact access to services for  
20 participants with intellectual and developmental disabilities.

21 Amending section 321-14.8, Hawaii Revised Statutes, to  
22 provide an exclusion for agencies serving participants in the

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1 Medicaid intellectual and developmental disabilities waiver will  
2 ensure that waiver participants continue to have access to  
3 services from qualified HCBS I/DD waiver provider agencies with  
4 a workforce that is continuously monitored to meet waiver  
5 requirements in alignment with state and federal standards.

6 SECTION 2. Section 321-14.8, Hawaii Revised Statutes, is  
7 amended by amending subsection (c) to read as follows:

8 "(c) A service provider agency [~~under contract for~~  
9 ~~services with the city and county of Honolulu elderly affairs~~  
10 ~~division]~~ shall be exempt from the licensing requirement of this  
11 section[~~-~~] when services are provided:

12 (1) Under contract for services with the city and county  
13 of Honolulu, elderly affairs division; or

14 (2) To participants in the medicaid home and community  
15 based services waiver, pursuant to section 1915(c) of  
16 the Social Security Act, by an agency approved by the  
17 department of human services, med-quest division."

18 SECTION 3. Act 21, Special Session Laws of Hawaii 2009, as  
19 amended by section 2 of Act 125, Session Laws of 2014, is  
20 amended by amending section 8 to read as follows:

21 "SECTION 8. This Act shall take effect on July 1, 2009 [~~-~~  
22 ~~2009, and shall be repealed on June 30, 2019, provided that~~

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1 ~~sections 321-11 and 321-11.5(b), Hawaii Revised Statutes, and~~  
2 ~~the definition of "healthcare facility" in section 321-15.2,~~  
3 ~~Hawaii Revised Statutes, shall be reenacted in the form in which~~  
4 ~~they read on June 30, 2009]."~~

5 SECTION 4. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

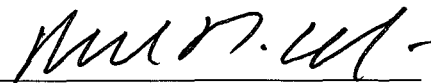
7 SECTION 5. This Act, upon its approval, shall take effect  
8 on June 29, 2019.

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INTRODUCED BY: \_\_\_\_\_



12

BY REQUEST

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**Report Title:**

Medicaid waiver

**Description:**

Removes sunset date of section 321-14.8, Hawaii Revised Statutes, and adds exception for Medicaid waiver provider-agencies providing services to Medicaid waiver participants.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO MEDICAID  
WAIVER.

PURPOSE: To exempt service provider agencies that participate with the Department of Health Home and Community Based Services program for individuals with intellectual or developmental disabilities (HCBS I/DD) from home care licensing requirements. HCBS I/DD is authorized by section 1915(c) of the Social Security Act, through the Hawaii Department of Human Services (DHS), and operated under waiver by the Hawaii Department of Health (DOH).

MEANS: Amend section 321-14.8(c), Hawaii Revised Statutes (HRS), and section 8 of Act 21, Session Laws of Hawaii (SLH) 2009, as amended by section 2 of Act 125, SLH 2014.

JUSTIFICATION: This proposal would eliminate duplications of time and effort in the regulatory oversight of provider agencies that participate in the HCBS I/DD program. This system already consists of a combination of federal regulations and oversight, as well as DHS and DOH policies and procedures, including certification of adult foster homes where many HCBS I/DD clients reside.

Impact on the public: This measure will eliminate unnecessary administrative burdens without diminishing continuity of care.

Impact on the department and other agencies:  
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM

DESIGNATION: HTH 501.

OTHER AFFECTED

AGENCIES: None.

EFFECTIVE DATE: June 29, 2019.